

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>ALFRED SCHLICK,</b>	)	<b>Case No. 1:07 CV 1908</b>
	)	
<b>Plaintiff,</b>	)	<b>Judge Dan Aaron Polster</b>
	)	
<b>vs.</b>	)	<b><u>MEMORANDUM OF OPINION</u></b>
	)	<b><u>AND ORDER</u></b>
<b>MICHAEL J. ASTRUE,</b>	)	
	)	
<b>Defendant.</b>	)	

Before the Court is Defendant's Motion for Clarification of Opinion and Order (**ECF No. 20**). The Commissioner of Social Security asks the Court to clarify the statutory basis for its June 17, 2008 order of remand. (ECF Nos. 18, 19.) The Court **GRANTS** Defendant's Motion.

The Court recently issued a Memorandum of Opinion and Order wherein the Court found that substantial evidence did not support the ALJ's finding that Plaintiff Alfred Schlick had no sitting restrictions. (ECF No. 18, at 3.) The Court also found that the ALJ failed to satisfy the procedures articulated in *Rogers v. Commissioner of Social Security*, 486 F.2d 234, 242 (6th Cir. 2007) when giving little or no weight to the opinions of Schlick's treating physicians. (Id. at 7-8.) The Court noted that Schlick had undergone replacement surgery of both hips within six months after the date of the hearing before the ALJ – evidence that was new

and material to a disability determination. The Court ordered remand of the case to the Commissioner under sentence six of 42 U.S.C. § 405(g).

The Commissioner has correctly noted in its Motion that remand under sentence six was improper since the Court remanded the case to the Commissioner to correct substantive errors as well as to take into consideration new evidence. Such remand is properly effectuated under sentence four of § 405(g).

Accordingly, for good cause shown, the Court hereby **VACATES** its previous Memorandum of Opinion and Order of Remand (ECF No. 18) and Judgment Entry (ECF No. 19) and is contemporaneously issuing an Amended Memorandum of Opinion and Order of Remand and Judgment Entry reflecting this clarification.

**IT IS SO ORDERED.**

/s/Dan Aaron Polster July 3, 2008  
**Dan Aaron Polster**  
**United States District Judge**